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August 29, 2006

VIA EXPRESS MAIL

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Executive Director
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P.O. Box 615
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RECEIVED

AUG 30 2006

PUBLIC SERVICE
COMMISSION

**RE: In The Matter Of:
CONSIDERATION OF THE REQUIREMENTS OF THE FEDERAL ENERGY
POLICY ACT OF 2005 REGARDING TIME-BASED METERING, DEMAND
RESPONSE AND INTERCONNECTION SERVICE, CASE NO. 2006-00045**

Dear Ms. O'Donnell:

Enclosed for filing in the above-captioned case are the original and ten (10) copies of the Post-Hearing Brief of Metro Human Needs Alliance.

Please confirm your receipt of this filing by placing the stamp of your office with the date received on the enclosed additional copy and return it to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance in this matter. Please contact me if you need any further information.

Sincerely,

Lisa Kilkelly

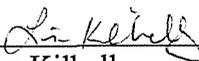
Lisa Kilkelly
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Post Hearing Brief of Metro Human Needs Alliance was served on the attached service list on the 29th day of August, 2006, United States mail, postage prepaid.



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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

AUG 30 2006

PUBLIC SERVICE
COMMISSION

In the Matter of:)

CONSIDERATION OF THE)
REQUIREMENTS OF THE FEDERAL)
ENERGY POLICY ACT OF 2005)
REGARDING TIME-BASED METERING,)
DEMAND RESPONSE AND)
INTERCONNECTION SERVICE)

CASE NO.
2006-00045

POST-HEARING BRIEF
OF
METRO HUMAN NEEDS ALLIANCE

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Procedural History

On February 24, 2006, the Kentucky Public Service Commission (“Commission”) initiated this administrative case to consider the requirements of the Energy Policy Act of 2005 (“EPAAct 2005”), Subtitle E, Section 1252, Smart Metering, and Section 1254, Interconnection. All jurisdictional electric utilities were made parties to the case.

Metro Human Needs Alliance (“MHNA”) filed a motion for full intervention based on its concerns about the potential impact of implementation of the smart metering standards on low-income households. The Commission granted MHNA full intervention by order dated March 13, 2006. The Commission also allowed intervention by the Attorney General of Kentucky, the Kentucky Industrial Utility Customers, PJM Interconnection, Cellnet Technologies and Hunt Technologies.

In the course of these proceedings, the jurisdictional utilities responded to requests for information from the Commission and MHNA. The Commission conducted an informal conference May 10, 2006 for the purpose of clarifying issues arising from the utilities’ responses to data requests and to discuss other issues pertinent to the case. The utilities and certain intervenors filed direct testimony and a public hearing took place on July 18, 2006 at the offices of the Commission.

MHNA files this brief for the purpose of addressing issues concerning the Section 1252 Smart Metering standards. MHNA has not taken a position on the Section 1254 Interconnection standard and does not address such standard in this brief.

Issues

EPAAct 2005 sets forth the issues for the Commission to determine regarding Smart Metering:

[E]ach State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).¹

The standards set out in subparagraphs (A) and (C) provide:

(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.²

(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.³

Argument

I. THE COMMISSION SHOULD NOT IMPLEMENT THE SMART METERING STANDARDS IN SUCH A WAY AS TO INCREASE ENERGY COSTS FOR LOW-INCOME UTILITY CUSTOMERS.

A. Low-income residential utility customers in Kentucky have experienced increases in the cost of energy in recent years.

Utility consumers in Kentucky as a whole have experienced increases in energy costs in recent years. For example, since 2003, the cost of natural gas has increased significantly.⁴ MHNA has seen the effect of such increases among its clients, who come to MHNA agencies for financial assistance and for help avoiding utility disconnections. In recent years, MHNA clients have requested help with significantly higher utility bills

¹ 26 U.S.C. 2621(d)(14)(F).

² 26 U.S.C. 2621(d)(14)(A).

³ 26 U.S.C. 2621(d)(14)(C).

⁴ *The Rising Cost of Natural Gas*, Kentucky Public Service Commission, January 20, 2006 available at http://psc.ky.gov/agencies/psc/press/012006/0120_r01.pdf.

than in the past.⁵ MHNA believes that recent rate increases⁶ and the higher costs of natural gas have contributed to these higher bills.⁷

In light of these rising utility costs, MHNA opposes further increasing costs on customers due to the implementation of smart metering standards. Increased costs could result if the Commission would direct utilities to implement programs in which participation was mandatory. Even if participation would be voluntary, increased costs could result if the Commission were to order utilities to offer programs to such a degree that the utilities would impose costs on non-participants. The evidence in this case is not clear that such programs would be cost effective.

B. The Commission should not implement the smart metering standards in such a way that participation is mandatory.

MHNA opposes implementation of a smart metering standard in which participation among residential customers would be mandatory.⁸ Several of the utilities who are parties to this case also oppose mandatory participation.⁹

EPAct 2005 does not require mandatory participation by utility customers in smart metering programs. The language of the standards clearly indicates voluntary participation. Each electric utility shall “offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule.”¹⁰ Subparagraph

⁵ Direct Testimony of Marlon Cummings on behalf of Metro Human Needs Alliance, Case No. 2006-00045 (“Cummings Direct”) at 3.

⁶ The last base rate increase in MHNA’s service territory was approved by the Commission June 30, 2004 in Case No. 2003-00433, Application of Louisville Gas & Electric Co. for an Adjustment of the Gas and Electric Rates, Terms and Conditions.

⁷ Cummings Direct at 3.

⁸ Id.

⁹ Direct Testimony of Bruce L. Sailors of Duke Energy Kentucky, Case No. 2006-00045 (“Sailors Direct”) at 7; Direct Testimony of David M. Roush of May 18, 2006 on behalf of Kentucky Power Co., Case No. 2006-00045 (“Roush Direct”) at 5-6; Direct Testimony of William A. Bosta of May 18, 2006 on behalf of East Kentucky Power Cooperative, Inc. and its Member Systems, Case No. 2006-00045 (“Bosta Direct”) at 5.

¹⁰ 16 U.S.C. 2621(d)(14)(A)

(B) describes several types of programs, which may be “offered.”¹¹ Further, the standard provides that each utility shall provide each customer *who requests it* a time-based rate with a time-based meter.¹² The EPCRA standards contemplate voluntary participation by customers rather than implementation of mandatory programs by utilities.

Depending on the type of program developed, programs requiring participation by residential customers would almost certainly result in additional costs to those customers. Several of the utilities have indicated that they would impose costs of participating in smart metering programs on those customers who choose to participate, such as the cost of meters and increased service charges, rather than spreading such costs among all customers.¹³

MHNA opposes mandatory participation in time-based rate programs because its clients may not be able to offset the higher costs of participation by shifting their usage.¹⁴ As MHNA witness Marlon Cummings stated in direct testimony, some of its low-income clients, such as those who are elderly, disabled and unemployed, are home during the day and may not be able to reduce usage of air conditioning during peak hours of the afternoon.¹⁵

Big Rivers and its Members noted that some potential benefits of smart metering programs might not be available to low-income customers.¹⁶ For instance, one potential benefit of a program utilizing two-way communication is that utility service can be

¹¹ 16 U.S.C. 2621(d)(14) (B)

¹² 16 U.S.C 2621(d)(14)(C)

¹³ Bosta Direct at 5; Direct Testimony of Russ Pogue on behalf of Big Rivers Electric Corp., Jackson Purchase Energy Corp., Kenergy Corp., and Meade County Rural Electric Cooperative Corp. (“Big Rivers and its Members”) Case No. 2006-00045 (“Pogue Direct”) at 4.

¹⁴ “Residential customers that do not alter their consumption patterns may face a higher bill” Bosta Direct at 5; Response of LG&E and KU to First Request for Information of MHNA, Item No. 2.

¹⁵ Cummings Direct at 3-4.

¹⁶ Response of Big Rivers and its Members to the First Request for Information of MHNA, Item No. 2.

integrated with appliances such as smart thermostats. Big Rivers recognized that low-income consumers are less likely to have access to these types of appliances either because they rent their homes or because they are more likely to have older, less efficient appliances.¹⁷

For these reasons, MHNA urges the Commission not to impose any mandatory time-based rate program.

C. The Commission should not impose the standards in such a way as to raise costs on nonparticipating customers.

EPAAct 2005 gives utilities considerable flexibility in the types of time-based programs they may choose to offer. Utilities have each described a wide variety of programs possible in Kentucky, from simple, low cost seasonal rate mechanisms to highly complex and costly real-time pricing options.¹⁸ Although several of the utilities stated that they would seek to recover the costs of these programs from participating customers, there is evidence in this case that in some circumstances, utilities might spread costs over a larger customer base and that these costs could be significant.¹⁹ MHNA opposes the implementation of standards in such a way as to raise costs on nonparticipating customers.

Although theoretically, implementation of smart metering programs will lead to benefits such as lowering peak demand, the testimony in this case strongly indicates that, currently, there is not enough information to conclude that the time-based programs would be cost effective and successful in reducing demand. LG&E's witness Kent Blake

¹⁷ Id.

¹⁸ See utility responses to Information Requested in Appendix C of Commission's Order dated 2/24/06, Item 2 (types of programs) and Item 3 (costs).

¹⁹ LG&E KU Response to Information Requested in Appendix C of Commission's Order dated 2/24/06, Item No. 4.

stated there is “currently insufficient data concerning the demand response effect of incremental time-based rate programs beyond those the Companies currently offer, as well as insufficient data concerning the cost-effectiveness of such programs.”²⁰ Duke Energy has not determined which schedule is most likely to produce the best results²¹ and recommends that a cost benefit review should be performed.²² Kentucky Power reports a low level of participation in its current time based program offerings.²³ East Kentucky Power Cooperative and its Member Systems are of the opinion that because of relatively low rates in Kentucky and because the incremental difference between the on-peak and off-peak rate is lower than in other, higher costs states, it is more difficult for customers to save a significant amount of money.²⁴ Big Rivers and its Member Cooperatives report low customer interest.²⁵

MHNA does not oppose pilot programs to explore the costs and benefits of time-based rates and smart meter programs, so long as such pilots do not impose any costs on customers who choose not to participate.

Conclusion

EPA 2005 requires the Commission to consider the use of time-based rate schedules and smart meters in order to manage energy usage and allow customers more control over costs. While these approaches may be the wave of the future and should be explored as pilot programs, circumstances in Kentucky are such that mandatory implementation of these programs does not make sense at this time. Mandatory programs

²⁰ Direct Testimony of Kent Blake on behalf of Louisville Gas and Electric Co. and Kentucky Utilities Co. Case No. 2006-00045 (“Blake Direct”) at 2-3.

²¹ Sailors Direct at 5.

²² *Id.* at 6.

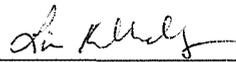
²³ Roush Direct at 4.

²⁴ Bosta Direct at 5. See also Direct Testimony of Paul A. Dolloff, at 8 (“TOD rates would provide minimal cost savings to the consumers of Kentucky.”)

²⁵ Pogue Direct at 4.

could be particularly detrimental to low-income customers. In deciding how to proceed under the standards of the EAct of 2005, MNHA urges the Commission to keep in mind recent cost increases and not to implement standards which would increase costs on residential customers.

Respectfully Submitted



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